

DISTRICT OF COLUMBIA
DOH Office of Adjudication and Hearings
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DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

MICHAEL F. PEARCE, D.D.S.
Respondent

Case No.: I-00-60110

FINAL ORDER

On December 15, 2000, the Government served a Notice of Infraction (No. 00-60110) upon Respondent Michael F. Pearce, D.D.S. alleging that he violated D.C. Code § 2-3310.1 by practicing dentistry without a license, and D.C. Code § 2-3310.3 by misrepresenting his authority to practice dentistry. The Government alleged that the violations occurred on December 15, 2000, and sought a fine of \$500.00 for each violation.

On January 3, 2001 Respondent filed a plea of Admit with Explanation, and this administrative court issued an order on January 9, 2001 permitting the Government to reply to that plea. The Government filed its reply on January 16, 2001. On January 25, 2001, Respondent requested an opportunity to submit additional information in support of his plea. In light of the Government's service of a new Notice of Infraction (No. 00-60109) charging Respondent with an additional violation, I granted Respondent's request and set a deadline of

February 5, 2001 for Respondent to file the supplemental information. Respondent, however, did not file any additional information in support of his plea.¹

II. Summary of the Evidence

Respondent acknowledges that he failed to renew his license to practice dentistry and thereby violated the statutory provisions cited by the Government. He insists, however, that he never received a notice informing him to renew his license, and attributes his failure to renew to “unintentional and inadvertent oversights” by both the Board of Dentistry and himself. He also states that he has complied with all applicable continuing education requirements.

The Government responds that Respondent’s last license to practice dentistry expired in 1988. It opposes any reduction in the fine due to the length of his unlicensed practice.

III. Findings of Fact

1. By his plea of Admit with Explanation, Respondent has admitted violating D.C. Code §§ 2-3310.1 and 2-3310.3.

¹ Notice of Infraction No. 00-60109 was dismissed on the Government’s motion on February 16, 2001.

2. Respondent practiced dentistry in the District of Columbia without a license on December 15, 2000.
3. Respondent also used the titles “D.D.S.” and “dentist” in the District of Columbia on December 15, 2000 with the intent to represent that he was authorized to practice dentistry.
4. Respondent’s last license to practice dentistry in the District of Columbia expired in 1988.

IV. Conclusions of Law

1. By practicing dentistry without a license in the District of Columbia, Respondent violated D.C. Code § 2-3310.1 on December 15, 2000.
2. By using the titles “D.D.S.” and “dentist” with the intent to represent that he was authorized to practice dentistry, but without being licensed to practice, Respondent violated D.C. Code § 2-3310.3 on December 15, 2000.
3. The Civil Infractions Fine Schedule authorizes the imposition of separate fines of \$500.00 for each of Dr. Pearce’s violations, for a total fine of \$1,000. 16 DCMR 3212.1 (m), (r); 16 DCMR 3201.1(b).
4. On this record, Dr. Pearce’s claim that he did not receive the proper renewal forms is an insufficient basis to mitigate the fines, for at least two reasons. First, 17 DCMR 4005.4 provides that the failure of a licensee to receive a renewal

application “does not relieve the [licensee] of the responsibility of renewing the license” The law places the burden upon the licensee, not the licensing agency, to make sure that proper renewal forms are received and submitted in a timely fashion. Second, Dr. Pearce’s twelve years of unlicensed practice can not be attributed solely to his alleged non-receipt of renewal forms in 1988. Dentistry is a regulated profession, and Dr. Pearce should have known that he needed to renew his license. Even if the licensing agency’s failure to send renewal forms could mitigate (but not excuse) a brief period of unlicensed practice, it cannot mitigate the failure to obtain a license for twelve years.

5. Dr. Pearce’s conclusory statement that he has complied with all continuing education requirements also is an insufficient basis for mitigating the fines. Because he has provided no evidence of the courses he has taken, there is no way meaningfully to evaluate that claim. Indeed, the requirement that a dentist’s license be renewed periodically provides a convenient and timely method for the proper authorities to monitor a dentist’s compliance with the continuing education requirements of 17 DCMR 4206. Dr. Pearce’s failure to renew his license means that no such monitoring has taken place. Consequently, I will not mitigate his fines based upon his unsupported representation that he has complied with the continuing education requirements for the past twelve years.
6. Similarly, I do not find that Dr. Pearce’s acceptance of responsibility is sufficient to mitigate the fines, particularly because the charges are limited to the events of a single day. Dr. Pearce’s recognition that he has violated the law, as evidenced by his plea of Admit with Explanation, is offset by his twelve-year failure to renew

his license. Dr. Pearce should have known years ago that his license had expired and he should have accepted responsibility at that time by talking the appropriate steps to renew. His belated acceptance of responsibility now does not justify any reduction in the fines.

7. Requiring renewal of a dentist's license is more than a bureaucratic technicality. The initial licensing and renewal process enables the Board of Dentistry to evaluate the professional competence and training of dentists who practice in the District of Columbia, and the licensing fees collected help to defray the cost of providing this important protection of public health and safety. Fairness to the dentists who have complied with the law by regularly renewing their licenses dictates that Dr. Pearce should pay the fines authorized for the violations that he admittedly committed.

V. Order

Based upon the above findings of fact and conclusions of law, it is, this _____ day of _____, 2001:

ORDERED, that Respondent shall cause to be remitted a single payment totaling **ONE THOUSAND DOLLARS (\$1,000.00)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Code § 6-2715). A failure to comply with the

attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's license or permit pursuant to D.C. Code § 6-2713(f).

/s/ **3-27-01**

John P. Dean
Administrative Judge